

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Assessment Act Proceedings for Public Improvements

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Purpose

To establish a procedure for the use of Assessment Act Proceedings in connection with work performed and/or funded under any of the assessment district procedural and funding laws, whether initiated by petition of owners, the County or a non-County agency.

Background

Existing policies authorize Assessment Districts to be initiated by petitions signed by owners of more than 60 percent of the area of the property to be assessed or by a governing board under certain special conditions. Board Policies I-24, I-25, and J-16 indicate conditions under which the Board of Supervisors may accept property owner petitions or initiate Assessment Act Proceedings themselves.

From time to time, other agencies or jurisdictions seek to establish Assessment Districts that include unincorporated area residents and/or territory, but before the Board will grant consent and jurisdiction to another agency, certain information must be made available for staff review.

Policy

It is the policy of the Board of Supervisors that:

1. The Board of Supervisors supports in principle the use of Assessment Districts for the construction, improvement and/or maintenance of public facilities. The Assessment District procedure provides an equitable way to apportion project costs to benefiting property owners and thus facilitates the provision of adequate facilities without financial burden to taxpayers who do not benefit from the project.
2. Non-County Assessment Districts:
 - a. When another jurisdiction requests County consent to include unincorporated territory in an Assessment District, that jurisdiction must provide all the following to the Clerk of the Board of Supervisors along with a deposit as set by the Director, Department of Public Works:
 1. The sponsoring agency's resolution or other document requesting Board approval;
 2. The sponsoring agency's proposed Resolution of Intention;

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3. A map or maps showing the boundaries of the proposed assessment district;
 4. Estimated cost of the improvements;
 5. Estimated total amount of assessment;
 6. A list of affected unincorporated area property owners and an indication whether they have signed a petition in favor of formation of the Assessment District. The County will rely on the sponsoring jurisdiction for verification of the accuracy and completeness of the petition;
 7. A list of parcels which have improvement bonds recorded against them for financing of future improvement; and
 8. Completed environmental documents that had included County involvement as a Responsible Agency under CEQA.
- b. The Clerk of the Board will transmit all the materials received to the Department of Public Works (for road, sewer, and drainage projects) or the Department of Planning and Land Use (for all others). The Department will determine the need for General Plan conformance, and will transmit a resolution to grant consent and jurisdiction together with a staff recommendation to the Board of Supervisors for its action.

3. Developer Assessment Districts

- a. If clear public benefit is determined, the Board may allow developers the use of Improvement Act procedures for the construction of infrastructure on property being developed. The proposed improvements must be for public facilities, for which the County or other public agency has normal operating and maintenance responsibility. The public benefits should be those which would not occur with conventional financing. Commercial, residential and industrial developments are all appropriate for consideration under this policy.
- b. A developer, wishing to put in public improvements through Improvement Act proceedings, is required by the Board of Supervisors to meet all the following criteria:
 1. The developer must file a completed application for use of Assessment District financing with a deposit as set by the Director, Department of Public Works.

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2. The proposal must conform with the General Plan.
3. The proposal must be approved by a committee composed of a representative of the Auditor and Controller, Treasurer-Tax Collector, and the Department of Public Works. The committee will review the proposal to insure absence of negative fiscal impact on the County's general financial condition to evaluate the potential public benefit, and to consider any proposed facilities not enumerated in 4, below.
4. The proposal must be for construction or installation of one or more of the following facilities: Circulation Element roads, street lights, water or sewer trunk lines, trunk utilities or regional drainage facilities. The facilities constructed by assessment procedures shall be owned and operated by a public entity or a public utility and shall remain in perpetual public use.
5. The maximum property value to lien ratio is to be 4-to-1 (25%) after the installation of public improvements to be financed (determined by appraisal) unless recommended otherwise by bond counsel and financial consultant. If there are prior liens on the property, they must be included when determining the ratio of property value to lien(s).
6. The developer must demonstrate to the County's satisfaction the financial ability to carry the property until it can be sold. A feasibility study as to market acceptance (paid for by the developer, and reviewed by a consultant hired by the County with money received from the developer) may be required.
7. The developer must ensure that full disclosure of this and any other assessment financing will be made to prospective purchasers.
8. The developer must deposit, in advance, all necessary monies for staff to conduct proceedings and contract with bond counsel, financial consultant and assessment and design engineers.

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- c. The assessment District will be implemented only upon establishment of a suitable reserve fund as determined by the financial consultant, bond counsel and County staff.
- d. The committee identified in 3.b.3 will continue to work with the project until completion.

Application

This policy shall apply to any Assessment District formed by any jurisdiction that requests Board Consent or by the County of San Diego to provide local Public Improvements and Facilities for Flood Control and Drainage (re: Policy I-24); Sanitary Sewers (re: Policy I-25); and General Plan Roads (re: Policy J-16); and/or Water Distribution Systems.

Sunset Date

This policy will be reviewed for continuance by 12-31-09.

Board Action

10-14-69 (54)
11-17-69 (50)
9-21-76 (32)
8-2-83 (39)
12-19-84 (6)
3-22-88 (37)
6-15-93 (41)
8-11-98 (32) deleted
11-17-99 (11)
08-07-02 (5)

CAO Reference

- 1. Department of Public Works
- 2. Chief Financial Officer/Auditor and Controller